

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

JOHNNIE JONES, JR.

PLAINTIFF

v.

4:06CV001609-WRW

**ARKANSAS GAME & FISH
COMMISSION, DALE OLDHAM,
Individually and in his Official Capacity,
and Robert Zachary, Individually and in
his Official Capacity**

DEFENDANTS

ORDER

Pending is Plaintiff's Motion to Temporarily Abate All Proceedings (Doc. No. 17). Defendants object (Doc. Nos. 18-19).

Plaintiff admits that his preceding case tried in May 2006, *Johnnie Jones, Jr. v. Arkansas Game & Fish Commission, et al.*,¹ involved the same parties and issues.² Plaintiff is currently appealing the Defendants' verdict to the Eighth Circuit.

Plaintiff has since filed this second action against three of the original parties, alleging race discrimination and retaliation in violation of Title VII, 42 U.S.C. §§ 1981 and 1983, and the Arkansas Civil Rights Act. Defendants' have filed motions to dismiss based on *res judicata*. Plaintiff now asks that this case, which of course includes the pending motions to dismiss, be stayed pending the Eighth Circuit's decision in his first case.

¹Case No. 3:04CV00030-WRW.

²Doc. No. 17.

Defendants' correctly noted that under federal law, "the pendency of appeal does not diminish the *res judicata* effect of judgment rendered by federal court."³ Accordingly, Plaintiff's Motion is DENIED.

IT IS SO ORDERED this 31st day of January, 2007.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

³*Hunt v. Liberty Lobby, Inc.*, 707 F.2d 1493, 1497 (D.C. Cir. 1983); *See also In re Cochrane*, 124 F.3d 978 (8th Cir. 1997) (Held collateral estoppel may apply to trial court's ruling on the merits of issue notwithstanding pendency of appeal from that ruling).